

ORIGINAL

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6-26-02
SCIN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

ALLFIRST BANK

*

Plaintiff,

*

v.

*

CASE NO.: 1:01-CV-786

JOHN M. ORTENZIO

*

Defendant

*

FILED
HARRISBURG, PA
JUN 25 2002
MARY E. D'AMORE, CLERK
Per [Signature] Deputy Clerk

**ALLFIRST'S OPPOSITION TO DEFENDANT'S
MOTION TO FILE SUPPLEMENTAL BRIEF**

Plaintiff, Allfirst Bank ("Allfirst"), by its undersigned counsel, opposes *Defendant's Motion to File Supplemental Brief* ("Defendant's Motion"), on the following grounds.

1. Defendant's Motion should be denied because it: (1) violates Local Rule 7.7; (2) offers no good reason why supplementation should be permitted; and (3) would unfairly prejudice Allfirst by allowing Defendant to present an entirely new, albeit baseless, defense to Allfirst's claims.

2. Local Rule 7.7 specifically prohibits the filing of a supplemental brief without leave of court. Notwithstanding this prohibition, Defendant has filed his supplemental brief by covertly attaching it as Exhibit "A" to Defendant's Motion.

3. Defendant's Motion, however, is devoid of any basis, support, or reason why this Court should permit supplementation at this late stage. The parties respective positions have been thoroughly briefed before this Court and there is no good reason for supplementation.

4. Review of Defendant's Supplemental Brief reveals that it does nothing more than present an argument that has never previously been disclosed to Allfirst as a defense to its' claims.

It would be fundamentally unfair and prejudicial to Allfirst to permit Defendant to supplement his reply brief with this new, albeit groundless, defense.

5. For these reasons, Defendant's Motion must be denied. In the alternative, if this Court should grant Defendant's Motion, Allfirst must be granted leave to respond to the new, but untenable, arguments presented by Defendant in his supplemental brief.



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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of June, 2002, a copy of *Allfirst's Opposition to Motion to File Supplemental Brief* was sent via Federal Express to Edward I. Swichar, Esquire and Robert A. Burke, Esquire, BLANK ROME COMISKY & MCCAULEY LLP, One Logan Square, Philadelphia, PA 19103, *Attorneys for Defendant*.



Ramsay M. Whitworth